

REMARKS UNDER 37 CFR § 1.116

Formal Matters

Claims 1-9 and 15-17 are pending after entry of the amendments set forth herein.

Claims 10-14 have been canceled, without prejudice to the possibility of filing one or more continuing applications directed to the subject matter recited therein.

Claims 1-9 were examined. Claims 1-9 were rejected.

Applicant respectfully requests reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

The Office Action

In the Official Action of August 17, 2007, claims 1-9 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Mentges, DE 29900194 in view of Ernst, GB 1,290,401. The Examiner asserted that Mentges discloses a device for cleaning feet in the shower that includes a base portion (unterteil) with a pair of side walls (seitenteil) extending upwardly therefrom, and having an open end portion extending therebetween. The Examiner further asserted that a first scrubbing means in the form of bristles (5,6,7) is mounted on inner wall surfaces of the side walls and that second scrubbing means in the form of bristles (5,6,7) is mounted on an upper surface of the base portion and extends between the first scrubbing means. The Examiner asserted that suction cups (saugnapfe) extend from a bottom surface of the base portion.

The Examiner admitted that Mentges fails to disclose a bar of soap provided on a material support that is biased with respect to the base portion to a height to make contact with a user's foot.

The Examiner asserted that Ernst discloses a cleaning device (Fig. 2) for use in showers that includes scrubbing bristles 2 extending from a base portion 1 and a bar of soap 19 supported on a material support 12 that is biased by helical springs 15 to extend to a height from the base portion higher than the bristles. The Examiner asserted that it would have been obvious to provide the device of Mentges with a cleansing material support with bar soap thereon biased from the base of the device to extend from the base higher than the bristles, as suggested by Ernst, to eliminate separate manipulation of soap with the foot to be cleaned.

Applicant respectfully traverses. It is respectfully submitted that neither Mentges nor Ernst suggests placement of a bar of soap within the base of a foot brush. It is noted that Ernst discloses a handheld scrub brush that retains soap such that soap extends downwardly from a top base member 1, see Fig. 1. It is further respectfully submitted Ernst does not teach biasing soap from the base of the device to extend from the base higher than the bristles, but rather teaches away from the same. For example, Ernst discloses at page 2, column 1, lines 5-13: "In practice, a weak (sic, weak) spring will preferable be used to urge the retaining means in a direction towards the functional face of the cleansing element(s), so as not to urge the material, e.g., soap, with excessive force out of the plane of the functional face of the cleansing elements, thereby unnecessarily increasing the consumption of, for example, the soap" (emphasis added). Further, Ernst notes at page 2, column 1, lines 23-25 that "... the mechanical friction of the bristles or of the sponge is exerted simultaneously with the application of the soap...". It is respectfully submitted that this would not be possible if the soap extended to a level below the level of the brush bristles of Ernst. Claim 1 has been amended to specify that the cleansing material support is biased with respect to said base portion and positioned to support cleansing material at a height above a top level of said second scrubbing means. It is respectfully submitted that this feature is neither taught nor suggested by either Mentges or Ernst and that, to the contrary, Ernst teaches away from this feature.

Further claim 2 has been amended to recite that cleansing material support extends to a level slightly lower than a top surface of said second scrubbing means, and wherein said second scrubbing means prevents sliding of the cleansing material during use. Support for this amendment can be found in Fig. 1 and in the specification, paragraph [0028], for example. It is respectfully submitted that Mentges lacks any disclosure of soap or a cleansing material support whatsoever. It is further respectfully submitted that the device of Ernst is used upside down relative to the orientation of the present invention, as it is a hand-held scrub brush. As such, Ernst requires the use of webs or lands 18 which engage into the soap 19 to retain it, as it would not be possible to retain the soap 4 by the bristles 2 when used in the orientation shown in Fig. 1, which is a typical orientation of use of the Ernst brush. For these additional reasons, it is respectfully submitted that claim 2 is allowable over Mentges in view of Ernst.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-9 under 35 U.S.C. Section 103(a) as being unpatentable over Mentges, DE 29900194 in view of Ernst, GB 1,290,401, as being inappropriate.

New Claims

New claims 15-17 have been submitted above. Support for new claims 15-17 can be found, for example, in paragraph [0033] of the specification. Each of claims 15-17 depends from claim 1 and it is respectfully submitted that these claims are allowable over the art of record for at least the same reasons provided above with regard to claim 1. It is further respectfully submitted that neither Mentges nor Ernst, or any of the other art of record, whether taken alone or in any proper combination, discloses teaches or suggests second scrubbing means comprising a contoured top surface to closely follow an arch-shaped contour (claim 15), first scrubbing means comprising a parabolically contoured surface (claim 16), or first scrubbing means comprising a hyperbolically contoured surface (claim 17). Accordingly, the Examiner is respectfully requested to indicate the allowability of claims 15-17 in the next Official Action..

Conclusion

Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number RYAN-001.

Respectfully submitted,

LAW OFFICE OF ALAN W. CANNON

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11/16/07

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